

Here, typicality is inherent in the class definition, *i.e.*, each of the class members were subject to the same Ordinance and thus, to the same violations of the Constitution as was plaintiff Kathrein. The typicality requirement of Rule 23(a)(3) is well satisfied.

D. Rule 23(A)(4) – Adequacy of Representation

Rule 23 of the Federal Rules of Civil Procedure also requires that the named plaintiffs provide fair and adequate protection for the interests of the class. That protection involves two factors: (1) whether plaintiff's counsel is qualified, experienced, and generally able to conduct the proposed litigation, and (2) whether the plaintiffs have interests antagonistic to those of the class. *Retired Chicago Police Ass'n v. City of Chicago*, 7 F.3d 584, 598 (7th Cir. 1993); *Secretary of Labor v. Fitzsimmons*, 805 F.2d 682, 697 (7th Cir. 1986); *Susman v. Lincoln American Corp.*, 561 F.2d 86, 90 (7th Cir. 1977).

Plaintiff Kathrein understands her responsibilities as the class representative. See Declaration of Victoria Kathrein in Support of Plaintiff's Motion for Class Certification, filed separately. She is represented by experienced counsel whose qualifications are set forth in the Declaration of Adrian M. Vuckovich in Support of Plaintiff's Motion for Class Certification, filed separately.

The second relevant consideration under Rule 23(a)(4) is whether the interests of the named plaintiffs are coincident with the general interests of the class. Kathrein and the class members seek monetary damages and injunctive relief, as well as a declaratory judgment that defendants' violated certain rights guaranteed to them by both the United States and Illinois Constitutions. Given the identical nature of the claims between Kathrein and the class members, there is no potential for conflicting interests in this



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL L. KATHREIN *and*
VICTORIA KATHREIN, on behalf
of herself and all others
similarly situated,

Plaintiffs,

v.

CITY OF EVANSTON, ILLINOIS,
LORRAINE H. MORTON, Mayor,
CHERYL WOLLIN,
1st Ward Alderman, City Council,
LIONEL JEAN-BAPTISTE,
2nd Ward Alderman, City Council,
MELISSA A. WYNNE,
3rd Ward Alderman, City Council,
STEVEN J. BERNSTEIN,
4th Ward Alderman, City Council,
DELORES A. HOLMES,
5th Ward Alderman, City Council,
EDMUND B. MORAN, Jr.,
6th Ward Alderman, City Council,
ELIZABETH B. TISDAHL,
7th Ward Alderman, City Council,
ANN RAINEY,
8th Ward Alderman, City Council,
ANJANA HANSEN,
9th Ward Alderman, City Council,

Defendants.

08 C 0083

**PLAINTIFF'S MOTION FOR
CLASS CERTIFICATION**

JUDGE RONALD A. GUZMAN
MAGISTRATE JUDGE SCHENKIER

**PLAINTIFF VICTORIA KATHREIN'S
MOTION FOR LEAVE TO FILE *INSTANTER* AN
AMENDED AND SUBSTITUTED MEMORANDUM IN SUPPORT OF HER
MOTION FOR CLASS CERTIFICATION**

Comes Victoria Kathrein, through her counsel, Adrian Vuckovich and James J.
Lessmeister of Collins Bargione & Vuckovich, and for her Motion for Leave to File an Amended



and Substituted Memorandum in Support of Plaintiff Victoria Kathrein's Motion for Class Certification states as follows:

1. On April 14, 2008, Victoria Kathrein filed her Motion for Class Certification and supporting Memorandum. See Document 34.
2. Upon review of the Memorandum, we ask for leave to submit the more cogent and complete Amended and Substituted Memorandum which is attached hereto as Exhibit A.
3. The Amended Memorandum will have Victoria Kathrein's declaration. There are minor changes to foot note 2 to the Memorandum and minor grammatical changes. There is no declaration from Adrian Vuckovich and reference to such has been deleted in the Amended and Substituted Memorandum.
4. There is no prejudice to the Defendants for the presentment of the motion is not until Tuesday, April 29, 2008.

Wherefore, plaintiff Victoria Kathrein request that she be granted leave to file *instantly* her Amended and Substituted Memorandum in support of her Motion for Class Certification.

Respectfully submitted,

Dated: April 23, 2008

/s/ Adrian M. Vuckovich

Adrian M. Vuckovich
Collins & Bargione
One North LaSalle St. – Suite 2235
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312-372-7840 fax



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Biography Recipient, Best Petitioner's Brief Award. Niagara Moot Court Team, 1990. Judicial Conference Symposium Editor, Loyola Law Journal, 1990-1991. Author: "Diminskis v. CTA: Circumventing Expert Witness Discovery," Vol. 21:3 Loyola Law Journal.

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Born	Chicago, Illinois, 1967
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Collins & Bargione practices in the following areas of law:

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Year Established: 1957**Firm Size:** 5**Clients:**

COUNSEL FOR: Chatham Corporation; Altair Corporation; Harvest Industries, Inc.; E & W Railroad Co.

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George B. Collins (Member) born Kansas City, Missouri, 1931; admitted to bar, 1953, Arkansas; 1955, Illinois; 1970, U.S. Tax Court; 1972, U.S. Supreme Court; 1982, U.S. District Court, Northern District of Illinois, Trial Bar; U.S. District Court, Eastern District of Arkansas; U.S. District Court, Eastern District of Wisconsin; U.S. Court of Appeals, Second, Seventh, Eighth and Ninth Circuits. **Education:** Arkansas A. & M. College (B.S., 1952); University of Arkansas (LL.B., 1954). Omicron Delta Kappa. Associate Editor, Arkansas Law Review, 1951-1952. Author: "Usury," 8 Arkansas Law Review, September, 1954. Teaching Associate, Northwestern University School of Law, 1954-1955. Co-Author: "Defending White Collar Crimes," Practicing Law Institute, 1976; "White Collar Crimes: Defense Strategies," Practicing Law Institute, 1977; "White Collar Crimes," Practicing Law Institute, 1978; "White Collar Crimes," Practicing Law Institute, 1980. **Member:** Chicago (Member, 1955-1978, Vice Chairman, 1967 and Chairman, 1968, Committee on Legal Education; Member, Committee on Professional Fees, 1966—; Vice Chairman, 1973; 1974-1975; Chairman, 1975, Member, Committees on: Environmental Law, 1973; Circuit Court Operations, 1976—; Member, 1976-1986, Vice Chairman, 1979-1980; 1981— and Chairman, 1980-1981, Lawyers Referral Plan Committee), Illinois State, Arkansas and American Bar Associations; Association of Professional Responsibility Lawyers; American Trial Lawyers Association; Illinois Trial Lawyers Association. **Practice Areas:** Attorney Discipline; Legal Malpractice; Civil Litigation; Criminal Litigation. *Email:* [George B. Collins](#)

Christopher Bargione (Member) born Franklin Square, New York, 1958; admitted to bar, 1983, Illinois; 1985, U.S. District Court, Northern District of Illinois; 1990, U.S. Court of Appeals, Seventh Circuit. **Education:** St. John's University (B.A., 1980); John Marshall Law School (J.D., summa cum laude, 1983). **Member:** Chicago and Illinois State Bar Associations. **Practice Areas:** Probate; General Litigation; Real Estate; Discrimination; Medical Malpractice; Products Liability; Commercial Litigation.

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